



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES  
ATTORNEY GENERAL

DIVISION OF STATE COUNSEL  
LITIGATION BUREAU

October 12, 2021

**Via ECF**

Hon. Erik R. Komittee, Hon. James R. Cho  
United States District Court, Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: **Sabino v. Chairperson, et al., 20-CV-5861 (EK) (JRC)**

Dear Judge Cho:

This Office represents the sole remaining defendant in the above-referenced action, Senior Parole Officer (SPO) James Ogle, a now former employee of the New York State Department of Corrections and Community Supervision ("DOCCS"). SPO Ogle respectfully requests extension of his time to respond to the Complaint nunc pro tunc, from October 8, 2021 (per the clerk's entry on the docket sheet), until November 19, 2021.

Initially, SPO Ogle objects to the clerk setting his response deadline at October 8 because it is clear from the face of the Marshal's return of service, ECF Document # 11, that service has not yet occurred. The Return clearly shows that there was no personal service on SPO Ogle or any other individual. The Remarks section on the return indicates that what purports to be service was in fact a mailing for the purpose of requesting him to waive personal service under Fed. R. Civ. P. 4(d). Upon receipt of such a request, the defendant has 30 days to return the waiver or acknowledgment of receipt of process, and then has 60 days from that response to respond to the Complaint. Because there has been no service, the Marshal's filing the return was premature. Correspondingly, the clerk's docket notation that the answer date is October 8, is also erroneous.

In addition to the foregoing, the time requested is needed for this Office to complete its initial investigation of the case. This is SPO Ogle's first request to extend the time to respond to the Complaint. Plaintiff's consent has not been sought because of the difficulty in prompt communication with pro se incarcerated individuals.

Sincerely,  
**/s/ David T. Cheng**  
David T. Cheng  
Assistant Attorney General

Hon. James R. Cho  
October 12, 2021

Page 2 of 2

Cc: Saul Sabino  
Anna M. Kross Center  
18-18 Hazen Street  
East Elmhurst, NY 11370  
*Plaintiff pro se*